



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

DECISION

MGE/172489

PRELIMINARY RECITALS

Pursuant to a petition filed March 02, 2016, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Dunn County Department of Human Services in regard to Medical Assistance (MA), a hearing was held on May 18, 2016, at Menomonie, Wisconsin.

There is no issue for determination because the matter is moot.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By:

Dunn County Department of Human Services
808 Main Street
PO Box 470
Menomonie, WI 54751

ADMINISTRATIVE LAW JUDGE:

Michael D. O'Brien
Division of Hearings and Appeals

FINDINGS OF FACT

1. The petitioner (CARES # [REDACTED]) is a resident of Dunn County.
2. The department notified the petitioner on February 4, 2016, that it was ending her institutional medical assistance as of March 1, 2016, after determining that her home was an asset.

3. The department reinstated the petitioner's institutional medical assistance retroactive to March 1, 2016, after receiving satisfactory information that her home was listed with a realtor.

DISCUSSION

A person cannot receive medical assistance if her assets exceed \$2,000. Wis. Admin. Code, § DHS 103.06(1)(a); Wis. Stat. §§ 49.46(1) and 49.47(4). The petitioner had been receiving institutional medical assistance, but the department notified her on February 4, 2016, that those benefits would end on March 1, 2016, because her homestead property was an available asset. Before the hearing, the petitioner's daughter provided documentation to the county agency showing that the home was listed with a realtor. The agency then determined that it was not available and reinstated her benefits retroactive to March 1, 2016. Because this is the day the benefits ended, she has not lost anything, and there is nothing to determine.

Nevertheless, the petitioner's daughter wanted to discuss two issues. The first was a request for benefits retroactive to September 1, 2015. I pointed out that she must file an appeal within 45 days of when it was denied. Wis. Admin. Code § HA 3.05(3). There is no record of the petitioner ever filing any other appeal. Although, it is unclear when the department issued any notice other than the February 4, 2016, notice, the petitioner's daughter indicated that her mother had been eligible for two or three months before her benefits ended on March 1, 2016. She would have been notified before she became eligible of the date she her eligibility would begin. If she had already been receiving benefits for two or three months, this date would have been more than 45 days before her March 3, 2016, appeal. In addition, if she sought and was denied benefits before she became eligible, that notice would have been before the date of the notice telling her she was eligible. This means that considerably more than 45 days have passed since the department made any decision denying benefits for September 2015. That said, she contends she filed an appeal on this issue. When I hear that appeal I will consider whatever evidence is brought before me.

The petitioner's daughter also wished to discuss what she considers a threat to her mother's future benefits. She testified that the agency is requiring her to give the department a lien and has told her that it plans to review her eligibility every month. I do not have authority to consider issues that might occur in the future. If the department takes steps to formally end the petitioner's benefits, she may file a new appeal; if it doesn't, there is nothing to appeal.

CONCLUSIONS OF LAW

The matter is moot because the petitioner has received the relief she requested.

THEREFORE, it is

ORDERED

The petitioner's appeal is dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as “PARTIES IN INTEREST” **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,
Wisconsin, this 19th day of May, 2016

\sMichael D. O'Brien
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

Brian Hayes, Administrator
Suite 201
5005 University Avenue
Madison, WI 53705-5400

Telephone: (608) 266-3096
FAX: (608) 264-9885
email: DHAmail@wisconsin.gov
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on May 19, 2016.

Dunn County Department of Human Services
Division of Health Care Access and Accountability